

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

THOMAS A. JARAMILLO,

Petitioner,

v.

ORDER

Civil File No. 04-3876 (MJD/FLN)

DONALD L. STINE, Warden,

Respondent.

Thomas A. Jaramillo, pro se.

Frank. L. Magill, Jr., Assistant United States Attorney, Counsel for Respondent.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Franklin L. Noel dated May 6, 2005. The Report and Recommendation recommended that Petitioner's Application for Habeas Corpus Relief under 28 U.S.C. § 2241 be denied. Petitioner has filed objections to the Report and Recommendation. The only new information contained in Petitioner's objections is a request that if the Court dismisses the habeas petition, it does so without prejudice so that Petitioner may preserve his right to file a subsequent habeas petition if the Supreme Court decides the issue upon which his petition is based in his favor some day.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); D. Minn. LR 72.1(c). Based on that review, the Court adopts the Report and Recommendation dated May 6, 2005. Moreover, Petitioner's request that his petition be denied without prejudice is denied.

Accordingly, based upon the files, records, and proceedings herein, **IT IS
HEREBY ORDERED** that:

1. The Magistrate Judge's Report and Recommendation dated May 6, 2005 [Doc. No. 10] is hereby **ADOPTED**;
2. Petitioner's Application for Habeas Corpus Relief under 28 U.S.C. § 2241 [Doc. No. 1] is **DENIED**;
3. Petitioner's Motion to Grant Relief on Petition for Writ of Habeas Corpus Pursuant to Title 28 U.S.C. § 2241 [Doc. No. 8] is **DENIED**; and
4. This action is **SUMMARILY DISMISSED WITH PREJUDICE**.

Dated: June 2, 2005

s/ Michael J. Davis
Michael J. Davis
United States District Court